



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### SOUTH CENTRAL REGIONAL OFFICE

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Preston Bryant  
Secretary of Natural Resources

David K. Paylor  
Director

Thomas L. Henderson  
Regional Director

## STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO

**Danville Lumber & Manufacturing Co. Inc.**  
**Registration Number: 30464**

### SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 1300 *et seq.* and 10.1-1185, between the State Air Pollution Control Board and Danville Lumber & Manufacturing Co. Inc. for the purpose of resolving certain violations of environmental law and/or regulations.

### SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
2. "Danville Lumber" means Danville Lumber & Manufacturing Co. Inc., certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.

5. “Facility” means Danville Lumber & Manufacturing Co. Inc., located at 600 Lynn Street in the City of Danville, Pittsylvania County, Virginia.
6. Order” means this document, also known as a Consent Order.
7. “Regulations” means the “State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution,” which have been incorporated into Title 9 of the Virginia Administrative Code (VAC).
8. “Va. Code” means the Code of Virginia (1950), as amended.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Danville Lumber owns and operates a facility in the City of Danville, Virginia. The Department designated registration number for this facility is 30464.
2. Danville Lumber operates a registered boiler for the purpose of providing space heat in buildings for manufacturing of wood products. The 5 MMBtu/hr Cleaver Brooks boiler burns sawdust created by the facility’s woodworking equipment.
3. The South Central Regional Office (SCRO) mailed an Annual Emissions Update for calendar year 2005 to Danville Lumber on December 30, 2005, which was due on March 15, 2006. The Virginia Administrative Code, 9-VAC 5-20-160, provides the Department’s authority to request updated emissions information.
4. Staff from the SCRO placed phone calls to Danville Lumber’s office on March 27 and April 7, 2006 regarding the tardy Annual Emissions Update.
5. Danville Lumber was issued a Warning Letter on April 17, 2006 for failing to submit a corrected Annual Emissions Update for calendar year 2005.
6. Staff from the SCRO placed a phone call to Danville Lumber’s office on May 4, 2006. Mr. Bruce Leffingwell returned the call the next day and agreed to promptly submit a corrected Annual Emissions Update.
7. Staff from the SCRO placed a phone call to Danville Lumber’s office on May 11, 2006 regarding the tardy Annual Emissions Update.
8. Danville Lumber was issued a Notice of Violation on June 6, 2006 for failing to submit a corrected Annual Emissions Update for calendar year 2005.

9. The SCRO received a corrected Annual Emissions Update for calendar year 2005 on June 22, 2006, 99 days after the due date.
10. Danville Lumber was previously issued a Warning Letter for failing to submit a timely Annual Emissions Update for 2002 on April 11, 2003. The source was also three months late in submitting its Annual Emissions Update for 2004.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority of §§ 10.1-1307 D., 10.1-1309, 10.1-1184, 10.1-1316 C., and 10.1-1186.2 orders and Danville Lumber agrees that:

1. Danville Lumber shall pay a civil charge of \$1,062.00 dollars for the violation described in Section C of this Order.
2. Danville Lumber shall make a payment to the Department of \$1,062.00 of this civil charge within 30 days of the effective date of this Order. Payment shall be by check, certified check, money order, or cashier check payable to "Treasurer of the Commonwealth of Virginia" and sent to:

Receipts Control  
Department of Environmental Quality  
PO Box 10150  
Richmond, Virginia 23240

Danville Lumber shall include its Federal Identification Number with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this paragraph.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Danville Lumber for good cause shown by Danville Lumber or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Danville Lumber by DEQ on June 6, 2006. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent

remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, Danville Lumber admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Danville Lumber consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Danville Lumber declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Danville Lumber to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Danville Lumber shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Danville Lumber shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Danville Lumber shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

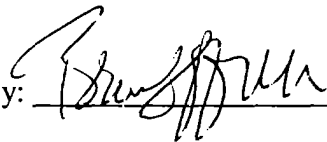
9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Danville Lumber. Notwithstanding the foregoing, Danville Lumber agrees to be bound by any compliance date, which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Danville Lumber. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Danville Lumber, from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below Danville Lumber voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of 10/13, 2006.

  
\_\_\_\_\_  
Regional Director  
Department of Environmental Quality

Danville Lumber Company voluntarily agrees to the issuance of this Order.

By:   
\_\_\_\_\_  
Date: 10-12-06

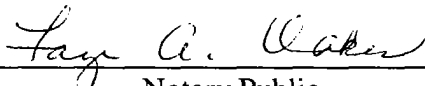
Commonwealth of Virginia

City/County of Danville

The foregoing document was signed and acknowledged before me this 12 day of

October, 2006, by Bruce Leffingwell, who is  
(name)

President of Danville Lumber Company on behalf of the Corporation.  
(title)

  
\_\_\_\_\_  
Notary Public

My commission expires: April 30, 2008